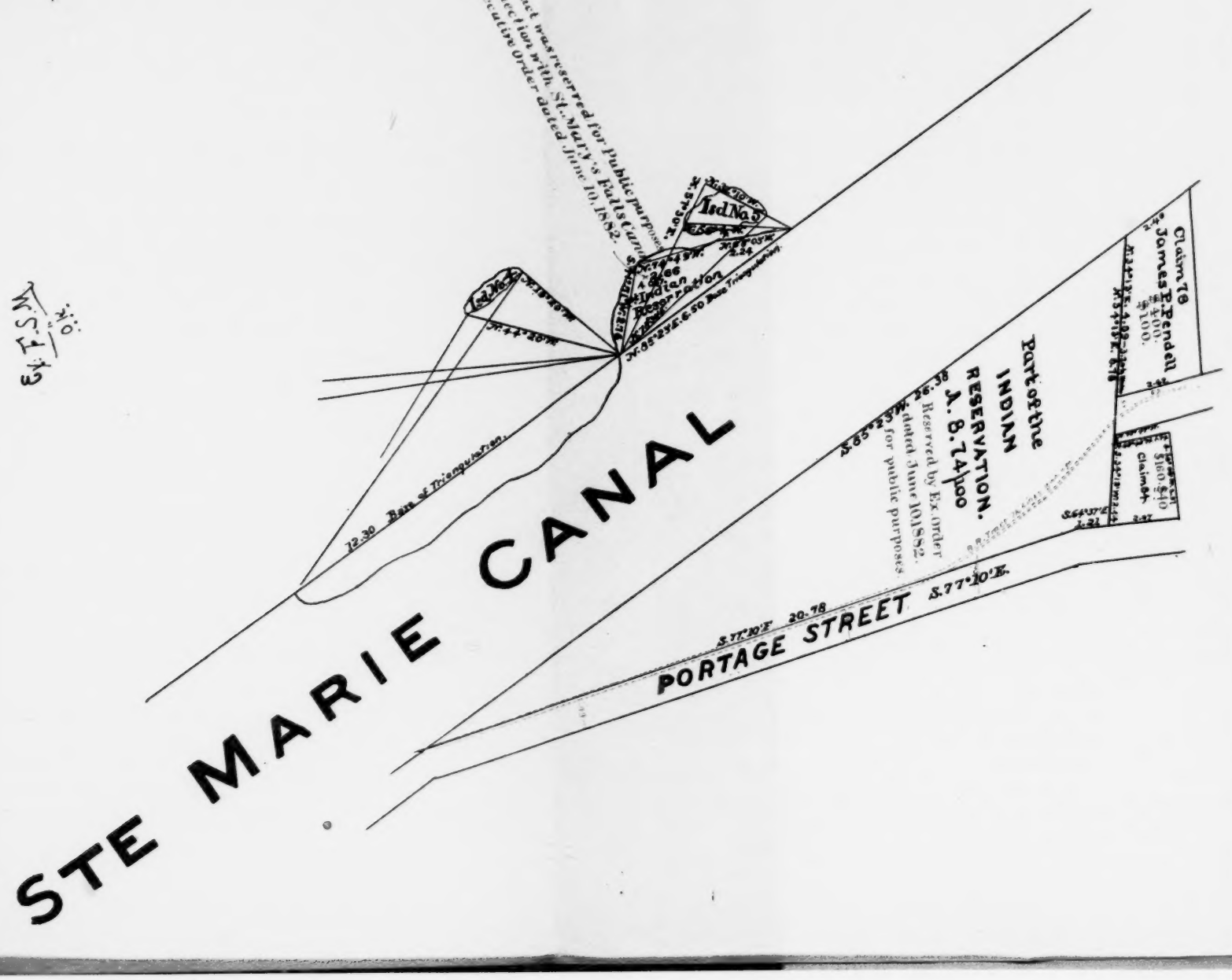
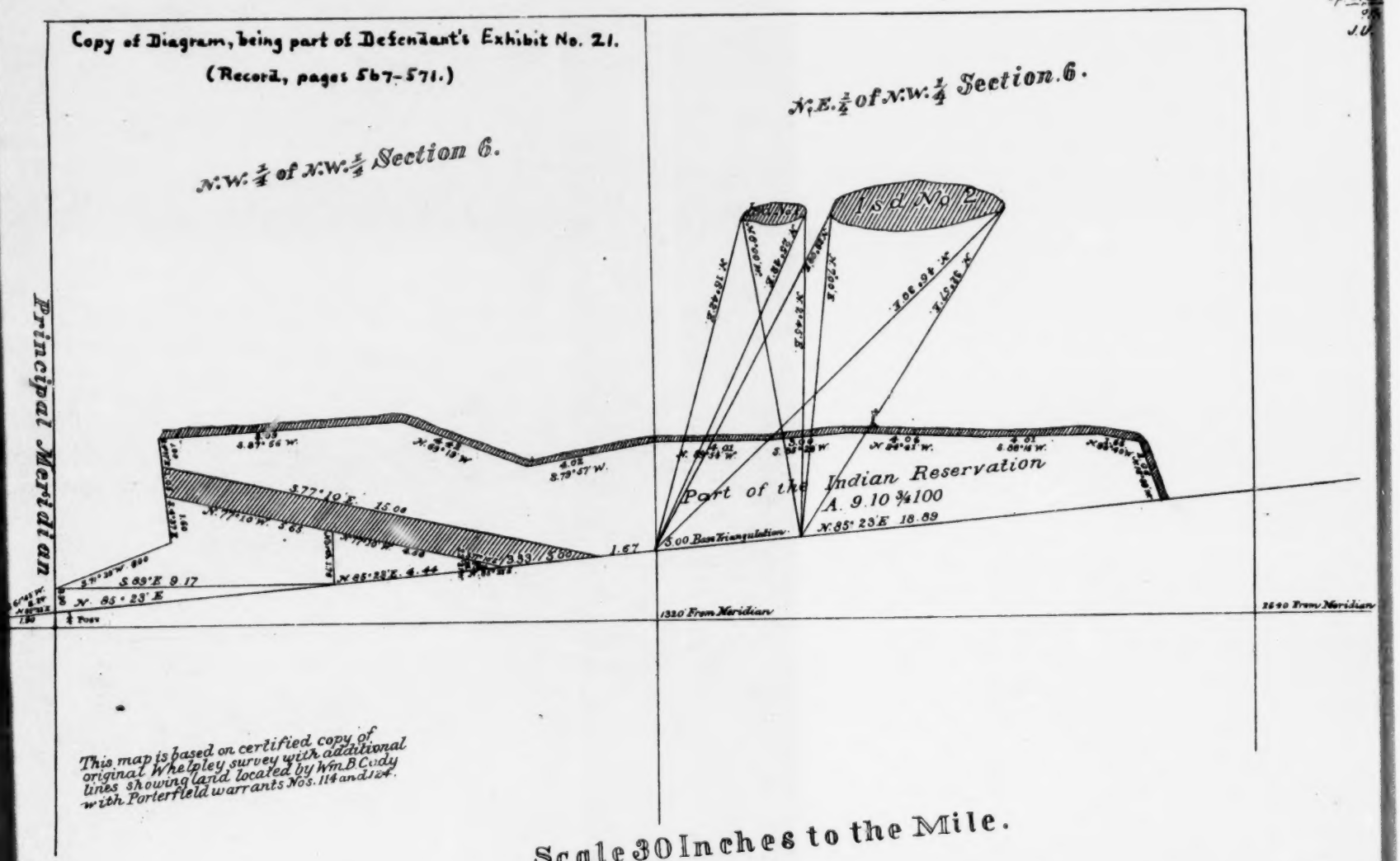
Copy of Diagram, being part of Defendant's Exhibit No. 9.

(Record, pages 321-322.)


This tract was reserved for public purposes in connection with St. Mary's Falls Canal by Executive Order dated June 10, 1882.
1st No. 3
1st No. 2
1st No. 1
Indian Reservation
N. 85° 22' E. 6.50 Base Triangulation
12.30 Base of Triangulation
S. 85° 23' W. 26.38
Part of the INDIAN RESERVATION. A. 8.74/100
Reserved by Ex. order dated June 10 1882. for public purposes
Claim 78
James P. Pendell
$100.
Claim 84
$160.40
S. 64° 37' E. 2.21
S. 77° 10' E. 20.78
PORTAGE STREET
S. 77° 10' E.
STE MARIE CANAL

Copy of Diagram, being part of Defendant's Exhibit No. 21.

(Record, pages 567-571.)


N.W. ¼ of N.W. ¼ Section 6.
N.E. ¼ of N.W. ¼ Section 6.
Principal Meridian
Isd No. 2
Part of the Indian Reservation
A. 9.10 ¾100
N. 85° 23' E 18.89
S 77° 10' E 15.00
N. 77° 10' W. 3.63
S 89° E 9.17
N. 85° 23' E
S 00 Base Triangulation
1320 From Meridian
2640 From Meridian
Post

This map is based on certified copy of original Whetpley survey with additional lines showing land located by Wm B Cody with Porterfield warrants Nos. 114 and 124.

Scale 30 Inches to the Mile.

In the Supreme Court of the United States.

OCTOBER TERM, 1907.

THE UNITED STATES, APPELLANT,
v.
THE CHANDLER-DUNBAR WATER POWER COMPANY.
No. 599.

MOTION TO ADVANCE.

This cause arises by suit brought by the United States in the United States Circuit Court for the Western District of Michigan, Northern Division, against the Chandler-Dunbar Water Power Company, to quiet title to two islands known as Islands Nos. 1 and 2, which are situated in the rapids of the Straits of St. Mary about 400 feet north of the American shore at Sault Ste. Marie, Mich., and south of the international boundary line between the United States and Canada. The Circuit Court dismissed the bill of the United States and the United States Circuit Court of Appeals for the Sixth Circuit affirmed the decree of the Circuit Court. By appeal from said Court of Appeals the controversy is brought before this court.

27509—08

The appellant, the United States, claims said islands as public lands in a state of reservation. The appellee claims them under a patent issued by the Land Department to one William Chandler on December 15, 1883, purporting to grant land situated on the south shore of the strait opposite said islands. The islands are not mentioned in said patent, but the claim of the appellee is that title to the shore land carries title to said islands as an incident of its alleged riparian ownership.

The principal questions involved are as follows:

I. Whether the principle of law established by this court in *Illinois Central R. R. Co.* v. *Illinois* (146 U. S., 387), as to the ownership of the bed of the Great Lakes, is applicable also to the bed of the communicating waterways connecting the Great Lakes, and therefore whether, as claimed by the appellant, the waters of the Straits of St. Mary are public navigable waters, the title to the bed of which, south of the international boundary, is in the State of Michigan, or whether, as claimed by the appellee, said title is in the owner of the adjacent shore and carries title also to unsurveyed islands opposite said shore.

II. Whether the character of the Straits of St. Mary, surrounding said islands, is established as public navigable waters, common to both nations, by treaties entered into between the United States and Great Britain, as well as by the law of nations, and therefore whether, as claimed by appellant, no riparian ownership attaches to the bed of said waters,

or to the islands existing therein, by virtue of ownership of the adjacent shore.

III. Whether, as claimed by the appellant, said islands, together with the tract of land on the opposite mainland included in said patent to Chandler, were prior to said patent and still are reserved from disposal by competent authority for public uses, viz, in connection with the construction of works in aid of commerce at that point, consisting of locks and a ship canal around the rapids, or whether, as claimed by appellee, said reservation, if lawfully established, has been lawfully released, and therefore whether said patent is or is not void.

IV. Whether said patent, even if valid as to said tract on the mainland, also carried title to the bed of the waters and to said islands therein, as claimed by appellee, or was limited to the water's edge by reason of the character of the survey thereof, as claimed by appellant, if said tract was ever surveyed.

V. Whether said tract on the mainland, so patented, was ever surveyed under the authority of the United States, as claimed by appellee.

VI. Whether, if said tract was never surveyed under authority of the United States, as claimed by appellant, the patent so granted by the United States under a location by Porterfield scrip was valid, as claimed by appellee, or void, as claimed by appellant, inasmuch as the act of Congress of April 11, 1860 (12 Statutes, 836), providing for the location of such scrip, confines its use to surveyed public lands

of the United States according to the usual legal subdivisions of such surveys.

VII. Whether the United States is estopped from bringing this suit; and whether the patent issued to said Chandler is not subject to attack in this suit by reason of a statute of limitations contained in the act of Congress approved March 3, 1891. (26 Statutes, 1099.)

The United States is about to add to its works in aid of commerce, above referred to, by the construction of another lock for use in connection with the two now existing and by widening the canal, and it is desirable that the status of land in the vicinity claimed by the United States be promptly determined.

Because of the general public interest in the case and the importance of the questions involved, the Solicitor-General, in accordance with rule 26, section 5, moves the court to advance this case on the docket and set it down for hearing on such day during the present term as may be convenient to the court.

The Solicitor-General has authority to say that the appellee concurs in such motion.

HENRY M. HOYT,
Solicitor-General.

FEBRUARY, 1908.

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